

**PLANNING COMMISSION & BOARD OF ZONING ADJUSTMENT
MINUTES**

ROSE ROOM: CREEKMORE PARK COMMUNITY CENTER

MARCH 13, 2018 – 5:30 P.M.

On roll call, the following commissioners were present: Bob Cooper, Jr., Shane Laster, Josh Carson, Vicki Newton, Marshall Sharpe, Ret Taylor, Kelly Wilson, Talicia Richardson and Don Keesee.

Chairman Sharpe then called for the vote on the minutes from the February 13, 2018, meeting. A motion was made, seconded and carried unanimously to approve the minutes as submitted.

Mr. Wally Bailey spoke on the procedures.

**1. Providence Subdivision, Phase II & III- Revised Preliminary Plat, Lots 30-68
Caroline Gardner/Crafton Tull**

Ms. Brenda Andrews read the staff report indicating the purpose of the revised preliminary plat is to change the phasing of the subdivision and add a third phase. Ms. Andrews stated that phase II and III of the Providence Subdivision are located north of R.A. Young Jr. Drive in Chaffee Crossing. There are 13 lots in Phase II and 26 lots in Phase III. The lots range in size from approximately 13,000 s.f. to 23,000 s.f.

No one was present to speak in favor or opposition of this application.

Chairman Sharpe called for a vote on the revised preliminary plat with staff comments, subject to the following:

- The developer must agree to meet all franchise and City utility easement requirements.
- The preliminary and final plat must comply with the city's Subdivision Design and Improvement Standards Specifications for Public Works Construction.

The vote was 8 in favor and 1 abstention (Carson). Chairman Sharpe announced the item was approved.

2. Rezoning #6-3-18; A request by Chris Weeks for a zone change from Residential Estate One (RE-1), Commercial Heavy (C-5) and Commercial Heavy Special (C-5-SPL) to Planned Zoning District (PZD) by classification at 3900 & 4220 Cliff Drive.

Ms. Brenda Andrews read the staff report indicating the purpose of the request would allow a variety of light commercial uses and residential uses including single family, row house, zero lot

line, and multifamily. Ms. Andrews stated that at this time, the owner does not have a final development plan. The PZD Booklet states that all development will be submitted to the Planning Commission for review and approval before obtaining a permit.

Ms. Andrews stated that a neighborhood meeting was held Tuesday, March 6, 2018, at 6:00 p.m., at the Fort Smith Public Library with seven (7) attending the meeting. Two of the attendees indicated they were in favor of single family development only and several of the attendees voiced opposition to multifamily. She further stated that a second neighborhood meeting was held March 12, 2018, at 6:00 p.m. at the River Park Events Building. Two people attended the meeting and preferred that the property remain undeveloped.

Commissioner Keesee asked Mr. Blake Peacock on the ability to add an entrance off Old Greenwood Road. Mr. Peacock stated that although it's possible, the applicant does not intend to add an entrance at that location.

The following property owners were present to speak in opposition of this request. Pam Weber (4223 So. 35th), Van Magness (4113 So. 35th), and Sheri Curtis (4121 So. 35th) citing concerns about protecting the residential area, buffer area, increased traffic and speeding.

Chairman Sharpe called for a vote on the rezoning with staff comments. Motion was made, seconded and carried to approve the application, subject to the submittal of a development plan for Planning Commission approval prior to the issuance of a building or sign permit.

The vote was 7 in favor, 1 opposed (Sharpe) and 1 abstain (Cooper).

- 3. Rezoning Application #7-3-18; A request by Billy Ward, for a zone change from Residential Multifamily Medium Density (RM-3) to a Commercial Heavy (C-5) by extension at 2216 N. 58th Street (Companion to Item #4).**
- 4. Development Plan #2-3-18; A request by Billy Ward, for a development plan for an ATV demo area, ATV sales display and signage for Wheeler Power Sports at 2216 N. 58th Street (Companion to Item #3).**

Mr. Wally Bailey stated that approval of the rezoning application and development plan would allow for an ATV demo area, ATV sales display, and signage. Mr. Bailey stated the purpose of the applications is to provide adequate locations for retail uses and services that generate moderate to heavy automobile traffic. He stated that the C-5 zoning district is designed to facilitate convenient access, minimize traffic congestion, and reduce visual clutter.

Mr. Bailey stated that at the Board of Directors meeting held on February 6, 2018, a board member stated their concern about the possible need for security fencing. Commissioner Richardson asked Mr. Ward what type of fencing would be used. Mr. Ward stated that the owner does not anticipate any trouble during closing hours, but will add a fence if needed.

Commissioner Taylor asked Mr. Ward about the size of the sign that would be used. Mr. Ward stated the size of the sign would be 30' x 10', and could go up to 45' in height.

Commissioner Taylor called for an amendment on the staff comments to include a landscape buffer on the frontage along the interstate. A motion was made, seconded and approve (6 in favor and 3 opposed).

Chairman Sharpe called for a vote on the rezoning and development plan with staff comments. Mr. Bailey mentioned that the rezoning application only had one staff comment, indicating it be subject to approval of the submitted development plan. Mr. Bailey further stated that the development plan should be approved based on the staff comments for the site plan items 1, 2 and 3 and the landscaping plan item 5.

- Construction must comply with the submitted development plan. Changes or amendments to the submitted development plan are permitted by limited to those described in Section 27-329-8 of the UDO. Any changes greater than those described in this section will require Planning Commission approval.
- Site lighting shall be in compliance with UDO Section 27-602-5.
- Drainage concerns from across North 58th Street shall be addressed at the time a building permit is submitted.
- Landscape buffer planted with one tree and ten shrubs every 50' linear must be provided along the interstate frontage.

A motion was made by Commissioner Carson and seconded by Commissioner Taylor.

The vote for the Rezoning request, item 3 was 7 in favor and 2 opposed (Wilson and Richardson).

The vote for the Development Plan request, item 4 was 7 in favor and 2 opposed (Wilson and Richardson).

- 5. Master Land Use Plan #1-3-18; A request by Mitch Minnick, for an amendment from Residential Detached to Residential Attached at 401 N. 9th Street (Companion to items 6, 7 & 8)**
- 6. Rezoning Application #8-3-18; A request by Mitch Minnick, for a zone change from Transitional (T) to Residential Multifamily High Density (RM-4) by extension at 401 N. 9th Street (Companion to items 5, 7 & 8).**
- 7. Development Plan #3-3-18; A request by Mitch Minnick, for a development plan approval for a Multifamily Development at 401 N. 9th Street (Companion to items 5, 6 & 8).**

Ms. Brenda Andrews read the staff report indicating the purpose of the Master Land Use Plan Amendment, Rezoning, Development Plan approval and Variance would allow a multifamily development consisting of 12 single family homes on one lot, eight of the proposed homes would be approximately 640 s.f. and four homes would be approximately 400 s.f. Ms. Andrews also stated that approval would allow the applicant to reduce the minimum number of parking spaces from 24 to 18 and to utilize the right-of-way on North D and North 9th Street for parking.

Ms. Andrews stated that according to the applicant, strict enforcement of the UDO will not allow the proposed project to keep with the aesthetics of the North 9th Street corridor of the Belle Grove Historic District. The applicant stated that with the project being an extension of Downtown, the project increases density while respecting the movement to promote walkability. The applicant further stated that it is anticipated that tenants will be single people who desire a minimalist life style.

Ms. Andrews further stated that a neighborhood meeting was held on Tuesday, February 27, 2018, at 4:30 p.m. The meeting was attended by eight residents, some attendees expressed concerns about the density of the development and the lack of on-site parking.

Mitch Minnick was present to represent the applications.

No one else spoke in favor or opposition of these request.

Chairman Sharpe called for a vote with staff comments on the Master Land Use Plan Amendment, Rezoning and Development Plan. Mr. Bailey stated that the Planning Commission needed to vote on the Development Plan with staff comments 1-7 with the removal of item 5.

Motion was made, seconded and carried for approval on items 5 and 6. Motion was made, seconded and denied for item 7.

Commissioner Carson asked if the Master Land Use and Rezoning were in compliance, meaning that they could vote yes on the Master Land Use and Rezoning but against the Development Plan and Variance. Mr. Bailey stated that another option would be that the Rezoning could be contingent upon the Development Plan.

The vote for the Master Land Use Amendment, item 5 was 8 in favor and 1 abstention (Richardson).

The vote for the Rezoning request, item 6 was 8 in favor and 1 abstention (Richardson).

The vote for the Development Plan request, item 7 was 4 in favor, 4 opposed (Keese, Laster, Cooper and Carson) and 1 abstention (Richardson).

Chairman Sharpe announced the Master Land Use Amendment and Rezoning was approved, but the Development Plan was not approved.

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- 8. Variance #9-3-18; A request by Mitch Minnick, for a the following variances: 1) from 24 to 18 minimum required parking (UDO Section 27-601-2); and 2) use of public right-of-way for parking purposes (UDO Section 27-601-7) at 401 N. 9th Street (Companion to items 5, 6 & 7).**

Chairman Sharpe called for a vote on the variance, subject to the Board of Directors approval of a Temporary Revocable License to allow parking in the right-of-way.

The vote was 4 in favor, 4 opposed (Keese, Laster, Cooper and Carson) and 1 abstention (Richardson).

Chairman Sharpe announced that the item was not approved.

- 9. Variance #8-3-18; A request by Ron Brixey, agent for Todd Yoder/Foxfire Properties, LLC, for an interior side-yard setback from 30' to 7.5' and 30' to 15' and a rear-yard setback from 30' to 10' at 2700 South Tulsa (Companion to item #10).**

Mr. Wally Bailey read the staff report indicating approval of the Variance and Development plan would allow for five, two story duplexes. Mr. Bailey stated that the site plan must comply with the UDO requirements by providing 24 parking spaces, landscaping, and screening fence around the perimeter of the property.

Mr. Bailey stated that a neighborhood meeting was held on Thursday, March 1, 2018. Seven surrounding property owners attended this meeting in objection to these request. Some objections included the proximity of the buildings to the property line, the height of the structures, drainage, and a decrease in property values. Mr. Bailey stated that the original development plan proposed two story duplexes.

Carol A. Bradshaw (2705 Utica St) was present to speak in opposition of these request, indicating concerns with the setbacks and decreased property values.

As a result of the neighbors' concerns about height and drainage, the applicant revised the plan to one story duplexes and changed the internal drives to reduce the hard surface areas to eliminate drainage issues.

Chairman Sharpe called for a vote with staff comments and the revised site plan. Motion was made, seconded and carried for approval.

The vote was 8 in favor and 1 opposed (Richardson).

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10. Development Plan #1-3-18; A request by Ron Brixey, agent for Todd Yoder/Foxfire Properties, LLC, for a development plan approval for a Multifamily Development at 2700 South Tulsa (Companion to item #9).

Chairman Sharpe called for a vote with staff comments. Motion was made, seconded and carried for approval, based on the Variance approval and revised site plan.

The vote was 8 in favor and 1 opposed (Richardson).

11. Home Occupation #3-3-18; A request by Bobby Williams, Jr., for a virtual musical recording and production studio at 5507 Fresno Street.

Ms. Brenda Andrews read the staff report indicating approval of the home occupation would allow Mr. Williams to operate a one bedroom music recording studio utilizing around 10% of his house. Ms. Andrews stated that the application indicated that the business would be by appointment only and only have one patron at a time. Ms. Andrews further stated that Mr. Williams previously had an approved home occupation for the same business located at 2701 Old Greenwood Road.

Mr. Darrel Cunningham (5401 Hardscrabble Way), Mr. Gary Bradley (3216 S. 56th Street), Mr. Robert Toeller (3205 S. 56th Street) and Ms. Shawna Bell (2406 Moody Road) were present to speak in opposition of this request. They stated concerns about loud music, increased traffic and parking.

Commissioner Carson called for an amendment to the staff comments stating that Mr. Williams can only have one patron at a time and the patron's vehicle must be parked in the driveway.

Chairman Sharpe called for a vote with the amended staff comments. Motion was made, seconded and carried for approval.

The vote was 9 in favor and 0 opposed.

There being no further items, the meeting adjourned at approximately 7:30 p.m.